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September 6, 2011

VIA FACSIMILE (609) 989-0435

Honorable Tonianne J. Bongiovanni
United States Magistrate Judge
Clarkson S. Fisher Building & Courthouse
402 East State Street, Room 2020
Trenton, New Jersey 08608

RECEIVED
SEP 6 8 2011
AT 8:30 M
WILLIAM T. WALSH CLERK

Re: **SPD Swiss Precision Diagnostics GmbH v. Church & Dwight Co., Inc., et al.**; Case Nos.: 09-01802; 10-00276; 10-00453 (FLW)(TJB)

Dear Judge Bongiovanni:

As you know, this office represents SPD Swiss Precision Diagnostics, GmbH ("SPD"). I write jointly on behalf of SPD and Church & Dwight Co., Inc. ("C&D") in advance of the status conference currently scheduled for Thursday, September 8 at 11:00 a.m.

After meeting and conferring, the parties have resolved most of their discovery disputes. At this time, the parties have reached an impasse on two issues: 1) whether certain documents concerning Dr. Lawrence Cole, a third party consultant to C&D, are appropriately designated as "confidential" or "highly confidential" under the stipulated protective order; and 2) whether C&D must produce materials concerning its "510(k)" submission to the Food and Drug Administration seeking approval of a claim that C&D's home pregnancy test is 99% accurate.¹

On the issue of the 510k materials, the parties propose submitting their positions in letter briefs that are filed simultaneously at 5:00 p.m. on September 13.

On the issue of the documents concerning Dr. Cole, the parties propose the following briefing schedule: SPD will file an opening letter brief by 5:00 p.m. on September 13; C&D will file an opposition letter brief by 5:00 p.m. on September 16;

¹ The parties are involved in ongoing discussions concerning the discoverability of materials relating to a study performed by Melanie Wakelin, a consultant to SPD. If they are unable to informally resolve the matter, they will request the Court's assistance.

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SPD will file a reply letter brief by 5:00 p.m. on September 21; and C&D will file a surreply letter brief (if appropriate) by 5:00 p.m. on September 23.

The parties request a telephonic hearing with the Court to address these two issues after briefing has concluded.

In addition, while the parties have taken a number of depositions to date, they agree that a brief extension of the discovery schedule is warranted under the circumstances, particularly because of supplemental document productions by both sides. The parties propose the following revised discovery schedule, which will resolve the dispute over the location of the depositions of SPD's remaining witnesses and over SPD's entitlement to four additional hours for completion of the deposition of Dr. Albert Nazareth:

1. Close of fact discovery: October 31, 2011
2. Exchange of opening expert reports: November 30, 2011
3. Exchange of rebuttal expert reports: January 13, 2012
4. Close of expert discovery: February 16, 2012
5. Dispositive motions to be filed: March 19, 2012

If the Court is amenable to the proposed briefing schedule and revisions to the discovery schedule, the parties agree that it would be appropriate to vacate the September 8 status conference if the Court is so inclined. Should the Court prefer to have a conference, counsel will be available.

Thank you for your courtesy in considering these points.

In light of the foregoing, the Sept 8, 2011 telephone Conference is Cancelled and will be reset once the Court has reviewed the discovery issues.

Sincerely yours,

Jeffrey G. Knowles

cc: Counsel for Church & Dwight Co., Inc. (via e-mail)
David E. Delorenzi (via e-mail)

So Ordered this 8 day
of September, 20 11